

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION**

In re:	)	Chapter 11
	)	
	)	Case No. 23-80016 (SGJ)
IMPEL PHARMACEUTICALS INC., et al, <sup>1</sup>	)	(Jointly Administered)
	)	
Debtors.	)	

**RESPONSE OF BOF II PA LINDENWOOD LLC TO THE DEBTORS'  
NOTICE OF CURE AMOUNTS AND POTENTIAL ASSUMPTION AND  
ASSIGNMENT OF EXECUTORY CONTRACTS AND UNEXPIRED  
LEASES IN CONNECTION WITH THE SALE TRANSACTION**

BOF II PA Lindenwood LLC (“BOF”) hereby submits this response (the “Response”) to the Notice of Cure Amounts and Potential Assumption and Assignment of Executory Contracts and Unexpired Leases in Connection with the Sale Transaction [Doc. 104] (the “Cure Notice”) filed by the debtors in these jointly administered cases (the “Debtor”). As grounds for this Response, BOF states as follows:

1. On December 19, 2023 (the “Petition Date”), the Debtor commenced this voluntary case under Chapter 11 of the Bankruptcy Code, 11 U.S.C. §§ 101 *et seq.* by filing its voluntary petition with this Court.
2. BOF and the Debtor are parties to a lease and consent agreement whereby the Debtor leases commercial real estate from BOF (together, the “Lease”).
3. The Cure Notice identifies the Lease as an unexpired lease that may be assumed by the Debtor and assigned to the purchaser of the Debtor’s assets (the “Purchaser”).

---

<sup>1</sup> The Debtors in this chapter 11 case, together with the last four digits of the Debtor’s federal tax identification number, are: Impel Pharmaceuticals Inc. (8238); and Impel NeuroPharma Australia Pty Ltd (N/A). The Debtors’ service address is 201 Elliot Avenue West, Suite 260, Seattle, WA 98119.

4. The Cure Notice lists “\$ - ” as the cure amount for the Lease.

5. While BOF agrees that the Debtor is current on its rental payments under the Lease, the Debtor remains in possession of the subject real property and additional amounts are likely to become due before the effective date of any assumption and assignment. Examples include (but are not limited to) property insurance, property taxes, and common area maintenance charges. Further, the Lease contains certain indemnification obligations of the Debtor in favor of BOF under which a third party has not yet asserted a claim (e.g., a personal injury on the subject premises). BOF objects to the proposed assumption and assignment of the Lease to the extent any such assumption and assignment seeks to excuse the assignee from fulfilling all obligations under the Lease.

6. BOF does not release or waive any claim, right, or remedy arising under the Lease, the Bankruptcy Code, or other applicable law. Nothing in this Response is, or should be construed as, a release or waiver of any claim, right, or remedy.

7. BOF reserves the right to amend or supplement this Response including, but not limited to, the right to assert additional cure claims. BOF further reserves the right to join in the objection of other interested parties.

Dated: January 26, 2024.

Respectfully submitted,

/s/ Jeremy L. Retherford

Jeremy L. Retherford  
Balch & Bingham LLP  
1901 Sixth Avenue North, Suite 1500  
Birmingham, Alabama 35203  
Tel. (205) 226-3479  
Fax. (205) 488-2693  
Email: [jretherford@balch.com](mailto:jretherford@balch.com)

-and-

/s/ Audrey F. Momanaee

Audrey F. Momanaee

Texas Bar No. 24055993

Balch & Bingham LLP

811 Louisiana Street, Suite 1010

Houston, Texas 77002

Tel. (713) 362-2557

Email: [amomanaee@balch.com](mailto:amomanaee@balch.com)

*Counsel to BOF II PA Lindenwood LLC*

**CERTIFICATE OF SERVICE**

I hereby certify that I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing and that a copy of the foregoing has been served upon the following by electronic mail, on this the 26<sup>th</sup> day of January 2024:

Sidley Austin LLP

Attn: Rakhee V. Patel

Email: [rpatel@sidley.com](mailto:rpatel@sidley.com)

Jackson T. Garvey

Email: [jgarvey@sidley.com](mailto:jgarvey@sidley.com)

Email: [Lisa.L.Lambert@usdoj.gov](mailto:Lisa.L.Lambert@usdoj.gov)

Honigman LLP

Attn: Scott Kitei

Email: [skitei@honigman.com](mailto:skitei@honigman.com)

Fenwick & West, LLP

Attn: Alan Smith

Email: [acsmith@fenwick.com](mailto:acsmith@fenwick.com)

Ethan Skerry

Email: [eskerry@fenwick.com](mailto:eskerry@fenwick.com)

Matthew McCabe

Email: [mmccabe@fenwick.com](mailto:mmccabe@fenwick.com)

Gray Reed

Attn: Aaron Kaufman

Email: [akaufman@grayreed.com](mailto:akaufman@grayreed.com)

Office of the United States Trustee

Attn: Lisa L. Lambert

1100 Commerce Street, Room 976

Dallas, Texas 75242

/s/ Jeremy L. Retherford

Of Counsel